

## LAW GOVERNING USURY

## A SUPREME COURT OPINION AS TO ILLEGAL INTEREST.

Decision in the Case, Ryan Against Kries From Lynchburg, Delivered by Lady Reversing the Lower Court.

Among the opinions handed down in the supreme court of appeals yesterday was the decision in the case of Ryan against Kries, in which Judge Lacy reversed the decision of the Circuit Court of Lynchburg, rendered May 20, 1890, Judge Lewis and Richardson dissenting.

In August, 1888, the appellant filed his bill in the Circuit Court of Lynchburg setting forth that on August 2, 1888, he had recovered judgment by confession in the clerk's office for \$1,200 with interest from October 1, 1887, and costs, and the bill is filed against P. A. Kries, the appellee, and no other person, the judgment debtors not being made parties to the suit.

The complaint is that within the five years preceding the filing of the bill, usurious dealings were had by the defendant with the plaintiff, praying that he might be made a party defendant to the bill, and required to answer the same, and that the cause might be referred to a jury, and the court is to inquire into all contracts and bargains relative to the usurious dealings, and report to the court the amount of illegal interest received by the defendant, which interest should be used to satisfy the complainant's judgment for general relief.

The demurrer of the defendant was overruled in the court May 1, 1893, and ordered according to the prayer of the bill; but during the term this order was set aside, three other causes being ordered to be heard with this, and an account ordered.

The total amount of discount according to the commissioner's account was \$10,000.68. Amount of legal interest, \$3,467.42, excess of legal interest, \$7,533.26. The amount due the several plaintiffs was \$6,343.55. The amount due the defendant by Samuel B. Rucker & Co., was fixed at about \$11,000.

The commissioner's report was approved, and the court decided that the bills of the plaintiffs be dismissed with costs, and ordered that defendant credit Rucker & Co., with all sums charged in excess of legal interest.

"The question to be decided in the case," says Judge Lacy in his opinion, is, "What is the true construction of the statute?"

The opinion quotes Mr. Blackstone as stating that in the constitution of all remedial statutes and in these cases comes under the remedial statute there are three points to be considered: the old law, the mischief, and the remedy. It was the business of the judge to consider the act as to suppress the mischief and advance the remedy. The statute under which the case falls is rather a statute against fraud, than a penal statute, and has been argued, and should be construed liberally.

"When courts are interpreting a statute," reads the opinion, "the thing to seek is the true construction of the statute. To ascertain the true result is to ascertain the natural significance of the words employed in the order in which they stand."

The sixth section of the statute provided for a mode of defense to an action of an usurious contract. In the seventh section the borrower is authorized to file his bill against the lender, to compel a discovery, and if usury was established, the lender was to have his principal money and pay costs; and the eighth section provides that the borrower paying such usurious interest can recover it by suit.

"If under the law at the time of the enactment," says Judge Lacy, "such suit should have been brought by a judgment creditor and the usurious bill filed, if the defendant had asked to have the usurious interest applied to the extinguishment of the principal money due under this usurious contract, so far as it would go, the contract is void in its entirety, and there is no valid debt existing against the debtor, usury having been established or admitted."

The opinion affirms that under the eighth section of this statute the borrower had a right for a year to bring his suit and recover back the usurious interest; but he has not availed himself of his legal rights, and the remedy has gone. To require the lender to refund his principal debt is to refund it to him. The law provides that this usurious interest having been once established, shall be applied to the satisfaction of the plaintiff's demand; to apply it to the satisfaction of the principal debt and legal interest is to apply it to pay the borrower's debt. This suit is not for his benefit, but for the benefit of the judgment creditor's demand.

The opinion further reads that the present statute bearing on the case is virtually the same as that of 1869, upon which the opinion was practically based. The other opinions handed down were: Whiting and others against the town of West Point. Upon a petition for a writ of mandamus, Demurrer overruled and rule discharged, Judge Lewis delivering opinion.

Turner's administrator against Thom. trustee. From Corporation Court of Norfolk. Reversed, Judge Hinton delivering opinion.

Norfolk and Western Railroad Company against Gallesher. Rehearing denied. Mitchell against Commonwealth. Further argued by William M. Hannon, Esq., plaintiff in error, and Major R. Taylor Scott, for Commonwealth, and submitted.

Lewis against Commonwealth (two cases). Argued by J. W. G. Blackstone for plaintiff in error, and Major R. Taylor Scott for Commonwealth, and submitted.

Forbes against Commonwealth. Morris against Jones, trustee, and Marshall against Fulmer. Continued.

Proffert against Anderson. Set for tomorrow.

Trumbo's administrator against City Street Car Company, Roach against Blakey, and Shifflett against Dowell. Submitted.

Shifflett against Commonwealth. Passed.

JUSTICE JOHN'S COURT.

Electricity and Whisky Don't Agree With Each Other.

The mercury continued to frolic around the freezing point yesterday, and genuine winter wraps had to be revived. The Justice turned up his coat collar, and sauntered down to the Temple, where he found the usual big crowd in the lobby.

The fire, too, felt good, and a large number of witnesses hovered around the big stove with a relish.

His Honor had to exercise his discretion with much skill in several instances. The questions to be decided were very delicate ones, and nothing less than a cool head and a thorough knowledge of the law would suffice. He may have made a slight mistake in one instance, but the man who never makes a mistake never makes anything else but a failure, and everybody knows it is easier to criticize than to act, and so His Honor, I venture, fills his chair of dignity as well as any man that could be found in Richmond.

The ball opened with the song and dance of C. F. Callie and Mary J. Winston (both colored), who got drunk and disorderly on the street, and had to be driven in the coupe. This was all wrong, of course, and the Justice touched the rioters for \$10 each.

Several small specimens of the colored population threw rocks. It cost them \$1 each.

The case of Charles Roach, charged with fighting in the street, was continued today.

Emmanuel Collier (colored), who was sent to the Henrico County Court yesterday

day on several charges of straight-out robbery, was up again on a few more similar charges. He "swiped" enough goods and chattels to start a general merchandise establishment. The articles belonged to parties in the county, and Emmanuel was turned over to the Henrico authorities on the additional charges.

Thomas Williams (colored) and \$250 for interfering with Policeman T. W. Williams while in the discharge of his duty. Annandus George, a small sized negro boy, was charged with being disorderly and throwing rocks in the street. Annandus was charged with being disorderly and throwing rocks in the street. Annandus was charged with being disorderly and throwing rocks in the street.

Two colored delinquents, drank a little too much and were disposed to be very disorderly on Manchester car No. 16. The young ladies are inhabitants of the Free State. They were "driven to all" hence the police officer deemed it dangerous for them to go to work. Their conduct on the street car was calculated to annoy the more peaceable passengers in the conveyance, and complaints were received and frequent. The howling feminine swells paid \$5 each for their conduct. Don't get full on an electric car. Electricity and whisky don't go together.

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They Act Like Magic on the Vital Organs. Regulating the Secretions, restoring long lost Composure, bringing back the Keen Edge of Appetite, and removing with the ROCKET OF HEALTH the whole physical energy of the human frame. These Facts are admitted by thousands, in all classes of Society. Largest Sale in the World.

Covered with a Tasteless & Soluble Coating.

Of all druggists. Price 25 cents a Box. New York Depot, 24 Canal St.

**FINANCIAL.**

**TO THE BONDHOLDERS OF THE SAVANNAH, AMERICAN AND MONTGOMERY RAILWAY.**—A major portion of the FIRST MORTGAGE BONDS OF THE SAVANNAH, AMERICAN AND MONTGOMERY RAILWAY having been deposited to the order of the Bondholders Committee, notice is hereby given to those who have not as yet deposited their Bonds that additional deposits will be received by the MORTGAGE TRUST AND DEPOSIT COMPANY OF BALTIMORE UNTIL MARCH 20, 1893, after which date the Committee will exercise its right to refuse further deposits or to receive them upon different terms.

Baltimore, March 15, 1893.

By the order of the Committee, C. R. SPENCER, Secretary.

**INVESTMENTS!**

**STATE BONDS, MUNICIPAL BONDS, RAILROAD BONDS, BANK STOCKS, INSURANCE STOCKS, TRUST CO. STOCKS.**

for sale to investors at current rates. We draw our own BONDS OF EXCHANGE on most of the 100 cities and towns in EUROPE, ASIA, AFRICA and SOUTH AMERICA and furnish travelers with LETTERS OF CREDIT available everywhere.

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**BANKERS,**

CORNER TENTH AND MAIN STREETS, RICHMOND, VA.

**MERCHANTS' AND PLANTERS' SAVINGS BANK**

Capital, \$100,000

JOHN H. MONTAGUE, President. H. A. WILLIAMS, Cashier.

**DIRECTORS:** P. H. MAYO, N. W. NEWBY, THOMAS M. CARTER, JOHN C. SHAYER, G. CARLTON JACKSON, CHARLES T. LOEHR, E. B. ARCH, JOSEPH HALL, B. C. WHERRY, JOHN H. MONTAGUE, LEVIN JOYNER, H. L. CANNELL.

**Deposits Received and Interest Allowed.**

**LOANS NEGOTIATED.**

**MERCHANTS' NATIONAL BANK**

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DESIGNATED CITY, STATE AND GOVERNMENT DEPOSITORY.

Capital, - \$200,000.00

Surplus and Undivided Profits, \$205,576.79.

Collection facilities unsurpassed; items collected at most reasonable rates on any part of the world, especially on points in the Virginia and Carolinas. Interest allowed by special agreement.

Foreign exchange bought and sold. Correspondence and business solicited.

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CAPITAL, \$100,000.

SURPLUS FUND, \$30,000.

R. A. PATTERSON, President. L. V. MORRIS, Vice President. JAMES M. BALL, Cashier.

**NOTICE TO CONTRACTORS.**

SEALED PROPOSALS WILL BE RECEIVED AT THE OFFICE OF THE CITY ENGINEER, RICHMOND, VA., UNTIL MONDAY, the 20th DAY OF MARCH, at 5 o'clock P. M., for furnishing all materials and erecting and erecting thereon a new school building on the Grant lot, on Twelfth street, between Marshall and Clay streets.

Each proposal to be accompanied by a certified check for \$250.

Drawings and specifications can be seen at the office of the City Engineer, and separately itemized amounts for the work, as a sum for the whole work complete.

The Committee on Schools reserves the right to reject any and all bids.

W. R. CUTHAW, City Engineer.

**PROPOSALS FOR TOBACCO FOR THE NEW YORK NAVY YARD.**—Sealed proposals, indorsed "Proposals for Tobacco for the New York Navy Yard," to be opened March 20, 1893, will be received at the Bureau of Supplies and Accounts, Navy Department, Washington, D. C., until 12 o'clock noon, March 20, 1893, and publicly opened immediately thereafter, to furnish at the New York Navy Yard 20,000 pounds of Navy Tobacco. The tobacco must conform to the Navy standard and pass the usual navy inspection. Samples of the standard tobacco may be furnished upon application to the Bureau. The attention of manufacturers and dealers is invited to the fact that the things being called, decided by lot. The Department reserves the right to waive defects in order to select any of the bids deemed advantageous to the Government. EDWIN STEWART, Paymaster General, U. S. N.

Supintendent's Office, Virginia Penitentiary, Richmond, Va., March 16, 1893.

**TO CONTRACTORS—SEALED PROPOSALS FOR THE REPAIRING OF THE PENITENTIARY BUILDING.**

Plans and specifications can be seen at the office of the Superintendent, Virginia Penitentiary, Richmond, Va., March 16, 1893.

**THE BICYCLE MEN.**

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Write to us for Catalogue and price list. The largest Nurseries south of the Potomac.

W. T. HOOD & CO., Old Dominion Nursery, Richmond, Va.

**NOTICE—THE POLICE WILL RE-OPEN ALL BARS THAT FAIL TO OBTAIN LICENSES FOR DOGS, GOATS, WAHONS, DRAYS, BUGGIES, HACKS, &c.**

APRIL 1, 1893. JOHN POE, JR., Chief of Police.

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**AUCTION SALES—Future Days.**

By N. W. Bowe and Apperson & Pollard, Real Estate Auctioneers.

**VERY VALUABLE AND UNUSUALLY AT TRACTIVE BROAD STREET BUSINESS PROPERTY ON THE SOUTH SIDE BETWEEN SIXTH AND SEVENTH STREETS BEING THE HANDSOME AND PRODUCTIVE STORES, Nos. 609 and 611, OCCUPIED RESPECTIVELY BY ISAAC HELD AND SCHURMAN & SON, AT AUCTION.**

In execution of the hereinafter mentioned decree, we will sell by public auction, on the premises, on

TUESDAY, March 21, 1893, at 4:30 o'clock P. M., those two WELL-LOCATED, ATTRACTIVE AND DESIRABLE STORES above referred to, situated on the SOUTH SIDE OF BROAD STREET, between Sixth and Seventh, and now occupied by first-class tenants at fair rentals. The central location of these properties, near the Second Market, renders them desirable, either as business premises or as high-class investments. The stands or as high-class investments. The stands or as high-class investments. The stands or as high-class investments.

By the order of the Court, T. A. WICKHAM, WM. F. WICKHAM, JAMES PLEASANT, ROSEWELL PAGE, Special Commissioners.

Wickham, &c., plaintiffs, against Lee and also, defendants.—In the Chancery Court of the city of Richmond:

I, Charles W. Goddin, clerk of said court, certify that the bond required of the special commissioners by the order in said cause of March 7, 1893, has been duly given.

Given under my hand, this 11th day of March, 1893.

CHAS. W. GODDIN, Clerk.

By Chevalier & Rose, Real Estate Agents, Auctioneers and Brokers, No. 6 North Tenth street.

**CURCH HILL PROPERTY, TWENTY-NINTH AND LEIGH STREETS.**

ON TUESDAY, 21st Day of March, 1893, at 4:30 o'clock P. M., we will sell by auction, on the premises, A LOT OF LAND, with improvements, situated on the northwest corner of Curch Hill and Leigh streets, fronting 54 1/2 by 63 feet. Will be divided or sold as a whole, or in small lots, at the option of the purchaser. The lots front each 21 feet.

TERMS: At sale.

By Chevalier & Rose, Auctioneers.

**NOTICE—THERE WILL BE SOLD BY PUBLIC AUCTION, at public auction, to the highest bidder, on APRIL 3, 1893, at 5 o'clock P. M., at the office of J. B. ELAM & CO., 113 EAST MAIN STREET, RICHMOND, VA., the following described real estate, to wit: A LOT OF LAND, situated on the corner of the RICHMOND AND ROANOKE LAND COMPANY. Certificates Nos. 12, 34, 37, 67, 41 and 48, for 50, 60, 101, 205 and shares respectively. By order of Board of Directors, E. ULLMAN, Secretary and Treasurer.**